

REMARKS

Introduction:

Claims 1-16, 18, 20, 22-25, 27-35, 37, 41-43, 46-61, 63, 67-79, and 72-79 (Claims 17, 19, 21, 26, 36, 38-40, 44, 45, 62, 64-66, 70, 71, and 80 were withdrawn in response to a Restriction Requirement) were pending in the patent application when an Office Action mailed April 19, 2005, rejected Claims 1-10, 14-16, 18, 20, 22-25, 27-29, 33-35, 37, 41-43, 46-55, 59-61, 63, 67-69, and 72-79. The Office Action noted that Claims 11-13, 30-33 and 56-58 were objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner is thanked for the indication of allowable matter.

By way of this Amendment, and without introducing new matter, the Applicants have amended the Claims. Applicants respectfully request entry of the amendment and reconsideration and allowance of all claims pending in this patent application.

Objections under 35 U.S.C. § 112:

The Office Action objected to Claims 1-16, 18, 20, 22-25, 37, 41-43, 46-61, 63, 67-69, and 72-73 as being indefinite for failing to point out and claim the subject matter which the applicant regards as the invention. Applicant has amended the claims to remove the cited indefiniteness. Applicant respectfully requests entry of this amendment to the Claims.

Independent Claims 1 and 27 have been amended to claim the footwear in combination with the claimed apparatus. Independent Claims 1, 27, 46, 74, and 77, have been amended to make more definite the use of the terms tongue and closure, and relationships involving the opening in the footwear.

Claims 2, 3 and 48 have been amended to reflect that the force member penetrates a surface of the footwear item. Claims 4 and 49 are amended to reflect the pivot members each including two slots. Claim 20 is withdrawn.

Claims 22-23, 41-42, and 67-78 are withdrawn, while Claims 24-25, 43, and 69 are amended to include the fastener as a limitation claimed in combination with the other elements.


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Claims 24 and 43 define the first closure line and make the fastener a limitation claimed in combination with the other elements.

Applicant respectfully requests entry of this amendment to the Claims, and withdrawal of the stated objections.

Rejections under 35 U.S.C. § 102:

The Office Action rejected Claims 1, 5-10, 22-25, 27-28, 41-43, 46, 50-55, 67-69, and 72-77 as being anticipated by Okajima. The Office Action stated Okajima teaches a securing apparatus including pivot members including rings, a strap member, a plurality of end sections configured to curve around the rings and including a fastener receiving opening to receive a lace fastener. Applicants respectfully traverse.

In one embodiment, the present invention includes at least two pivot members disposed near the opposing lateral sides of the tongue, each of the pivot members being positioned on a surface of the footwear item between the opposing lateral sides of the tongue and the heel section; wherein each of the pivot members includes *a first pivot slot in a surface of the footwear item*. In another embodiment, the apparatus includes a retaining mechanism configured to maintain the force member *at a predetermined position relative to the tongue*. In a further embodiment, the apparatus comprises *a first closure line configured to secure the tongue on the footwear item and a fastener, the fastener including a second closure line separate from the first closure line*. In yet another embodiment, the pivot members include *a first pivot slot and a second slot in the surface of the footwear item, such that the force member extends from the end sections, penetrates the surface of the footwear item the first pivot slot, and curves toward a centerline of the closure at the first pivot slot, and the force member again penetrates the surface of the footwear item at the second slot and continues extending toward the closure at the second slot*.

Okijima (U.S. 6,073,370):

Okijima teaches a snowboarding boot with a long strap 21 extending through rings 15 of short straps attached to first and second sides of an upper. The long strap has loops at its ends through which lace L is threaded.

Okajima does not disclose, teach, or fairly suggest the apparatus taught by applicants. Specifically, Okajima does not teach or suggest an apparatus including *a first pivot slot in a surface of the footwear item*. Okajima does not disclose apparatus including a retaining mechanism configured to maintain the force member *at a predetermined position relative to the tongue*. Okajima discloses a single lace, not *a fastener including a second closure line separate from the first closure line*. Okajima discloses no pivot slot or second slot penetrated by the force member.

Claims 1, 27, 46, 72, and 77:

Turning now to the specific language of the claims, independent Claims 1, 27, 46, 72, and 77, have been amended to remove the indefiniteness cited by the examiner, but as separate dependent claims depend from these claims, they have not been otherwise amended. The limitations of Claims 1, 27, 46, 72, and 77 will be copied into allowable claims in this matter.

Claims 5-10:

Claims 5-8 are withdrawn. As described above, Okajima does not disclose, teach, or fairly suggest the apparatus recited in claims 9 and 10. More specifically, Okajima does not teach or fairly suggest a mechanism for maintaining the force member at a predetermined position relative to the tongue. In Okajima the long strap is free to drift relative to the tongue.

Claims 22-24 and 25:

Claims 22 and 23 are withdrawn. As described above, Okajima does not disclose, teach, or fairly suggest the apparatus recited in claim 24. Okajima does not teach or fairly suggest a first closure line configured to secure the tongue on the footwear item and the fastener, the fastener including a second closure line separate from the first closure line. Okajima teaches one lace. With respect to claim 25, Okajima discloses a single lace, not a strap fastener.

Claim 28:

As described above, Okajima does not disclose, teach, or fairly suggest the apparatus recited in claim 28. Okajima does not teach or fairly suggest a mechanism for maintaining the force member at a predetermined position relative to the tongue. In Okajima the long strap is free to drift relative to the tongue.

Claims 41-43:

Claims 41 and 42 are withdrawn. As described above, Okajima does not disclose, teach, or fairly suggest the apparatus recited in claim 43. Okajima does not teach or fairly suggest a first closure line configured to secure the tongue on the footwear item and the fastener, the fastener including a second closure line separate from the first closure line. Okajima teaches one lace.

Claims 50-55:

Claims 50-53 are withdrawn. Okajima does not disclose, teach, or fairly suggest the apparatus recited in claims 54-55. More specifically, Okajima does not teach or fairly suggest a mechanism for maintaining the force member at a centerline of the closure. In Okajima the long strap is free to drift relative to the tongue. Okajima does not disclose a removable retainer for the force member, as recited in claim 55.

Claims 67-69, and 72-73:

Claims 67 and 68 are withdrawn. As described above, Okajima does not disclose, teach, or fairly suggest the apparatus recited in claim 69. Okajima does not teach or fairly suggest a fastener wherein the fastener includes a second closure line separate from a first closure line, the first closure line configured to secure the closure. Okajima teaches one lace.

Claims 72 and 73 depend from claim 69 and are allowable for the same reasons as claim 69, and also due to additional limitations contained in those claims.

Claim 76:

As described above, Okajima does not disclose, teach, or fairly suggest the apparatus recited in claim 76. Okajima does not teach or fairly suggest a force distributing member. Even if Okajima is considered in view of Bettiol, the stiffener in Bettiol is taught for boot stiffening, not distributing force from the force member.

Applicants therefore request acceptance of the amendment, reconsideration and allowance of Claims 2-4, 14-16, 18, 20, 29, 33-35, 37, 47-49, 59-61, 63-57, and 78-79.

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Rejection of Claims 2-4, 14-16, 18, 20, 29, 33-35, 37, 47-49, 59-61, 63-57, and 78-79 under 35 U.S.C. §103(a):

The Office Action rejected Claims 2-4, and 47-49, as being obvious under Okajima in view of Monti. The Office Action rejected Claims 14-16, 18, 20, 33-35, 37, 59-61, and 63 as being obvious under Okajima in view of Bettiol. The Office Action rejected Claims 29 and 78-79 as being obvious under Okajima in view of Boeing. Applicant respectfully traverses.

Monti (U.S. 5,992,057):

Monte teaches a strapping system for footwear. Monte describes criss-cross heel straps 122 that pass through but do not pivot around slits 134 in the upper

Monte does not disclose, teach, or fairly suggest the apparatus taught by applicants. Specifically, Monte does not teach or suggest an apparatus including *a first pivot slot in a surface of the footwear item*. Monte discloses no pivot slot in combination with a second slot penetrated by the force member.

Bettiol (U.S. 6,839,985):

Bettiol teaches a tongue stiffener for footwear. Bettiol describes a semi rigid reinforcement 46 with lateral extensions 60/61. The reinforcement 46 is sewn to the tongue 32.

Bettiol does not disclose, teach, or fairly suggest the apparatus taught by applicants. Specifically, Bettiol does not teach or suggest an apparatus including *a force distribution member configured to receive the securing force applied on the tongue by the force member and distribute the securing force over an area wider than a width of the force member*. Bettiol teaches towards stiffening the tongue, not distributing a force from outside.

Boeing (U.S. 3,456,366):

Boeing teaches an ankle tie for footwear. Boeing describes an ankle tie strap 10, slipped through guides 19 in the upper. The guides 19 provide no control of the position of the strap 10 with respect to the tongue.

Boeing does not disclose, teach, or fairly suggest the apparatus taught by applicants. Specifically, Boeing does not teach or suggest an apparatus configured to maintain the force

member at a predetermined position *relative to the tongue*. Further, Boeing does not teach or suggest *any coupling a retaining member to the force member such that the guides maintain the retaining member between the guides*.

Claims 2-4 and 47-49:

As discussed with reference to the § 102 rejection above Okajima teaches no reference to a pivot slot. Monti teaches a slot, but no pivoting at the slot. Neither Okajima nor Monti teach a pivot slot in combination with a second slot. Claims 2 and 47 include a *first pivot slot* formed in a surface of the footwear item. Claim 3 and 48 state that *the force member curves around toward a center line at the first pivot slot*. Claim 4 and 49 recite the force member curving toward the tongue at a first pivot slot, and the force member extends continues *extending toward the tongue[or centerline of the closure] penetrating through the surface of the footwear item at a second slot*.

Claims 14-16, 18, 20, 33-35, 37, 59-61 and 63:

Claim 20 is withdrawn. As discussed above, Bettiol teaches a tongue stiffener, not a force distribution member. Also, Claims 14-16, and 18 depend from allowable Claim 9, Claims 33-35, and 37 depend from allowable Claim 28, and Claims 59-61 and 63 depend from allowable Claim 54. By reason of their dependence from allowable Claims 9, 28, and 54 and for other reasons, Claims 14-16, 18, 33-35, 37, 59-61 and 63 are not obvious under Okajima in view of Bettiol.

Claims 29, and 78-79:

Claim 29 has been amended to depend from allowable Claim 28. As discussed above, Boeing teaches guides along the ankle and back of an upper, not the tongue. Claim 78 includes *coupling a retaining member to the force member such that the guides maintain the retaining member between the guides*, elements not present in Boeing or Okajima. Neither Boeing's ankle strap, nor Okajima's long strap include a retaining member retaining the force member between the guides. Claim 79 depends from allowable Claim 78.

Applicants therefore request acceptance of the amendment, reconsideration and allowance of Claims 2-4, 14-16, 18, 20, 29, 33-35, 37, 47-49, 59-61, 63-67, and 78-79.

Allowable Subject Matter:

Applicants appreciate the Examiner's determination of allowable subject matter in Claims 11-13, 30-32, and 56-58.

CONCLUSION

Applicant respectfully submits all of the pending claims (Claims 1-4, 9-16, 18, 24-25, 27-35, 43, 46-49, 54-61, 63, 69, 72-74, 76-79) are patentable over the cited references and are in condition for allowance. Applicants respectfully request entry of the amendment, and reconsideration and allowance of all claims in this patent application.

If the Examiner has questions, the Examiner is invited to contact the Applicant's attorney listed below.

Respectfully submitted,

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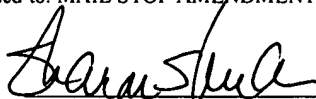
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MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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September 19, 2005



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